

Burger Names 10 Judges To New Wiretap Courts

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From now on—for the first time—all national security wiretaps in the United States must have judicial approval.

Chief Justice Warren E. Burger yesterday formally appointed the 10 federal judges who will rule on requests for electronic surveillance by the FBI and the National Security Agency.

The seven district court judges who will take turns hearing the requests include Albert V. Bryan Jr. of Alexandria, who held the government to strict warrant procedures in a recent Vietnamese espionage case, and Frank J. McGarr of Chicago, who was a finalist for FBI director last year.

The three-member court to hear government appeals on any denied request includes A. Leon Higginbotham Jr., a respected black U.S. Court of Appeals judge from Philadelphia, and James E. Barrett of Cheyenne, Wyo., and the 10th U.S. Circuit Court of Appeals.

As expected, the chief judges of the courts will be George L. Hart Jr. of Washington for the district level court, and George E. MacKinnon of Washington for the appeals court.

Attorney General Griffin B. Bell, a

former federal appeals court judge who lobbied for the legislation setting up the wiretap courts, said yesterday that their establishment "is a resumption of our faith that all government activities which have potential to intrude upon the liberties of our citizens can be brought within our constitutional framework."

An aide said Bell considered the legislation the first of the statutory charters for the intelligence community. Proponents of an all-encompassing charter for U.S. intelligence agencies pointed to the new courts as an important beginning.

Sen. Birch Bayh (D-Ind.), chairman of the Intelligence Committee, called the wiretap law "the first step" toward comprehensive charter legislation for U.S. intelligence.

Jerry Berman, congressional lobbyist for the American Civil Liberties Union, said the new law "is the benchmark against which the charters will be tested."

The push for a charter has been stalled lately because of concerns that restrictions would tie the hands of American intelligence specialists. Noting the current debate and growing conservative mood in the administration and Congress, Berman said: "This bill passed in the nick of time. It's the only law that defines what a national security investigation is."

The court is to be an added protection in cases of proposed monitoring of foreign counterintelligence targets in this country. It requires that there be "probable cause" of criminal activity before an American citizen or resident alien is targeted for surveillance.



JUDGE GEORGE L. HART JR.
... will head district level court

As part of the intelligence charter, the Carter administration has drafted a proposal that would allow spying on Americans in certain cases. A warrant would be required—probably from the new court—but a person could be targeted without evidence of criminal activity.

This departure from the standard in the wiretap act has dismayed civil liberties groups and Vice President Mondale.

Most current national security wiretaps are against foreign government offices, such as embassies.

Other judges on the district level Foreign Intelligence Surveillance Court are Frederick B. Lacey, a former U.S. attorney in New Jersey; Lawrence Warren Pierce of New York; James H. Meredith of St. Louis and Thomas Jamison MacBride of Sacramento.